App. F. IX-4

1930-31

File No.

Previous References

Serial Nos. 394.

Later References

(13)

General and Revenue Secretariat.

Serial Nos.

Part B for

SUBJECT.

Serial No.

Letter no — dated 6.11.30 from the PPr. B'lore intimating that O.S. 7/28-29 on the file of the Dist. Judge B'lore (Venkatappa vs the Secy) was dismissed on 30.6.30, when each party was ordered to bear his own Costs, and forwarding a bill for Rs 50/ for the services rendered in the above Case.

The bill is duly Countersigned for apprl

Dft G.O. Sanctioning is put up.

TSD 10/4

Please put up a draft asking the PPr whether he consented & if so why & under whose authority he consented, to the dismissal of the Suit without costs being allowed to govt.

DDP 10/4

Dft put up according to approval

TSD 9/4

Legal Rr

DDP 11/11

P. 13/11

DDP 14/11

To

The PPr. B'lore

No. P. 2791 d 15.11.30 enquiring whether he Consented for the dismissal of O.S. 7/28-29 if so why & under whose authority he Consented to adopted such Course.

Sus A

Notes Contn. Sheet.

17/4

WD 02553—G PB—50,000—8 7 30

DDP 17.11

Sus A

TSD 19/12

Issue DDP 19/12

Rr no. 3544 d 22.12.30

Sus A till 1/1/31

DDP 24/12

97 v280
2

File No. 193 General and Reven Secretariat

Dft R^r to the Pl^r to file

ISD
7/1

Issue
rnl
7/1

R^r no. P. 4011 d 9.1.31

Sus A
ISD
10/1
Bnc

Letter no. 338/30-31 dated 3rd Feb^y 1931 from the Pl^r. Bl'ore forwarding a copy of the Judge's note leading to the dismissal of the Case.

Subd for perusal
ISD
4/2

1) The Pl^r states that the case was dismissed & the order allowing each party to bear his own costs was passed on 30/6/1930 by the Dt Judge in chambers. He appears to support this order on the ground that costs are in the discretion of the Court. But the discretion must be exercised judicially & not arbitrarily as in this case.

The report as to the disposal of this case has been sent by the Pl^r on 6.11.1930 i.e nearly 4 months after, ~~the~~ after the time for rectification has lapsed.

The Pl^r's bill for Rs 50/- for work done in the case is now for orders.

He could have easily brought this to the notice of the Judge at the ordinary sittings which are not commenced, but sent a memorandum, which was not entertained within

Legal R^r
Bnc
6/2/31

1) This is a case in which the Pl^r has neglected the interests of Govt, and his report makes it worse. What is the amt of costs?

D.M. 11/2 BDL 12/2

Serial No.

8) This was a suit for a declaration of the plaintiff's right to stand for the Bangalore Dt Board election held in consequence of the setting aside of the original election in 1926 in which the plaintiff had succeeded & for an injunction to restrain Govt to hold the ~~re~~ election without accepting the candidature of the plaintiff. The suit was valued in the plaint for Rs 100/-. It was contended in the defence that the suit was not maintainable & it was also prayed that this be tried as a preliminary issue & the case disposed of. The defence was filed on 4-2-29. The case however seems to have been adjourned for evidence till 28/6/1930, when on the plaintiff expressed a desire to withdraw the suit on account of "efflux of time". On the 30th the Judge has dismissed the suit & ordered each party to bear his own costs.

9) If Govt had been allowed costs, atleast a sum of Rs 10/- would have been allowed as Advocate's fee. Since no decree is passed probably framed in the case, the actual amount of costs assessable is not known.

Legal Rv

Boy
14/—

In this case, were the Wts Sts: had to be prepared in this Office, & time may be is invited to my note of 31.1.30 on the subject of the

NOTE—Contn. Sheet.

May 21

WD 02553—G PB—50,000—8 7 30

File No. 4.3897 of 193 General and Revenue Secretariat

The P.P.M has not only done no work but has omitted to press for costs though it was his duty to have done so. The minimum fee in the D.C. Court is to Counsel is Rs 7/-, and in unusual case I think a fee of Rs 16/- may be allowed to the P.P. This omission & carelessness has also to be pointed out

D.M. 23/2

H.D. Member

OFFICE OF THE SECOND MEMBER OF [illegible]
24 FEB. 31
No. 802

DMC 24/2

(1) Papers (of the P.P. does not [illegible] the interests of the [illegible] herein leave to be removed).

[illegible] 24/2

Draft please.

D.M. 28/2

DRS 28/2

Dft Sub:

ISD 2/3 Typed draft, please

DMC 4/3

Dft & put up.

ISD 5/3 Draft G.O. Submitted for orders.

(2) Legal Rv

DMC 5/3

M/s ISD

Please put the draft G.O. referred to [illegible] revised by the Secy

MC 10/3

retyped & put up.

ISD 11/3

(3) This also may be sent up Since work have to be done by Member for a week

After issue of the G.O, a draft D.O to the P.P., as instructed will be put up.

Legal Rv.

DMC 11/3

D.M. 12/3.

5 3893

App. F. III—2]

General and Revenue Secretariat | File No. | of 193

Serial No.

Dft D.O. is put up.

TSD 13/3 (1+) Draft I. G.O. Sanctioning Rs 10/- as fee.
Draft II. D.O letter to Mr. Vijayaraghavan
are for orders.

Legal Rr

BNR 13/3

Draft approved

DM 16/3

2nd Member

Ag 17/3/31

DM 17/3

May this issue?

TSD 17/3 Yes. The D.O has to issue confidentially under Secy's signature

BNR 17.3

Do

The PPr Bangalore
Compltr
D.C.

G.O.No.P. 5051 dated 19th March 1931 sanctioning a fee of Rs 10/- for services rendered in O.S. 7/28-29 on the file of the Dist. Judge B'lore (Venkatappa & S. Thantarya vs Govt)

To

The PPr. B'lore

D.O. No. P. 5050 dt 19th March 1931 pointing out certain irregularities

Refer: para 11.

The file will be closed, if approved

B. TSD 6/4 A.R.)

BNR 7.4.31

OFFICE OF THE SECOND MEMBER OF COUNCIL
16 MAR. 1931
No. 8537

NOTE—Contn. Sheet

WD 02553-1-50,000—GPB—8-7 30

No
encl

2280 / P 30

Bangalore
6-11-1930

From

Lr. 8.5.30-3

The public prosecutor,
Bangalore

To

The Legal Remembrancer
and Secretary to Government,
Law Department,
Bangalore

Sir,

OS 7/28-29 on the file of the District judge, Bangalore. (Venkatappa and other vs. Chief Secretary + Deputy Commissioner, Bangalore)

With reference to your letter no. 2202 (1) Law 39-28-3 dated 11th October 1928 requesting me to appear in the above case to defend on behalf of Government, I have the honour to inform you that I appeared in the above case and filed the written Statement in Consultation with the Deputy Commissioner Bangalore. The case was posted for evidence and the evidence was not recorded. The suit was dismissed on 30.6.1930 and each party was ordered to bear his own costs. I enclose herewith my bill of remuneration duly counter-signed by the District judge for early payment. I request you to kindly pass the bill early date. The records received from Deputy Commissioner Bangalore are returned to him. I have the honour to be,

Sir,
Your most obedient servant
B. M. V. Iyer
Public Prosecutor

B. N. VIJAYA, DEVA, M. A.,
BARRISTER-AT-LAW,
PUBLIC PROSECUTOR & GOVT. PLEADER,
BANGALORE DVN.

2

Government of Mysore

Dr.

To

My remuneration for having conducted OS 7/28-29 on the file of the District Judge, Bangalore (Venkatappa and S. Thontaya vs. Chief Secretary and Deputy Commissioner Bangalore District)	B.N.V.D. Rs 50-0-0
Total	B.N.V.D. 50-0-0

Rupees ~~Fifty~~ B.N.V.D. only

Rupees Fifty Only

B. N. Vijaya Deva

Public Prosecutor,

Bangalore.

Bangalore
1-11-1930

~~Brought forward for hearing appearing on the following orders dated 3-4-29, 25-5-29, 27-5-29, 4-6-29, 17-11-30, 26-5-30, 2-6-30 and 31-7-30~~

~~55 Hours @ 30.~~

~~District Judge~~
Bangalore

Appendix F G—1

SUBJECT.....

.....

.....

Diary No. of letter replied to.....

Section

File No.

Serial No.

No. P 2791

General and Revenue Secretariat

( )

the *193*

To

The P.P.r. Bangalore

Date of issue 15/11

Sir,

Signed by Mr. N. R. J. Rao

With reference to your letter dated 6th November 1930 re: 7/20-29 on the file of the District Judge Bangalore (Venkappa vs. Chief Sec.t) I am directed to enquire whether you Consented for the dismissal of the Suit without Costs being allowed to Govt and if so, why and under whose authority You adopted such Course. ~~Such Consent was given?~~

List of enclosures.....

Copied by.....

Examined by.....

The matter may ~~kindly~~

[over

WD 02559—GPB—25,000—25-6-30

be heard as urgent and the information required may kindly be furnished at a very early date.

MC

I have etc

TSD

MP

L R[illegible]

11/4

14th November 1930.

The Public Prosecutor,

B a n g a l o r e.

With reference to your letter dated 6th November 1930 regarding O.S. 7/28-29 on the file of the District Judge Bangalore (Venkatappa Vs Chief Secretary) I am directed to enquire whether you consented for the dismissal of the suit, without costs being allowed to Government and if so, why and under whose authority you adopted such course.

The matter may be treated as urgent and the information required may kindly be furnished at a very early date.

I have the honor to be,

Sir,

Your most obedient servant,

For Legal Remembrancer and
Secy. to Govt.Law Deptt.

c.n.

3893

Bangalore 5

No: 338/30-31

3-2-1931

From

The public prosecutor,
Bangalore.

To

The Legal Remembrancer and Secretary
to Government, Law Department,
Bangalore.

Sir,

Re: OS 7/28-9 on the file of the District
Judge, Bangalore. Venkatappa vs.
Chief Secretary and another.

With reference to your letter No. P. 4398/Law dated 26th January 1931 I have the honour to state as follows:-

The judge's note are as under.

23. 6. 1930. On account of Sessions adjourned to 28.6.30

28. 6. 1930. Plaintiff by Mr. S.K.V. Iyengar
defendant by Mr. B.N.V. Deva
judge being on casual leave adj to 30.6.1930

By reason of the efflux of time there is no need to prosecute further proceedings. Plaintiff pray that they may be allowed to withdraw the suit each party bearing their own costs (Sd.) Venkataramaiya
Adv for Plaintiff

30.6.1930 plaintiff.

Defendant.

The suit is dismissed. parties to bear their own costs.

30.6.1930

It will be seen therefore that the order was passed in chambers without hearing me as to the costs and in the discretion of the court and in the circumstances of the case nothing else could be done.

I have the honour to be,

Sir,

your most obedient servant,

B. N. [illegible]

public prosecutor,

Bangalore

b

Law 85-30-4

Proceedings of the Govt., of H.H.the Maharaja of Mysore.

R e a d--

Letter dated 6th November 1930 from the Public Prosecutor Bangalore forwarding for sanction a bill for Rs.50/- being his remuneration for professional services rendered in O.S. 7/28-29 on the file of the District Judge Bangalore (Venkatappa and S. Thontaraya Vs Govt. of Mysore and D.C.Bangalore.

Order,No. P 5857-53/Law

Dated, Bangalore the 19th March 1931

This was a simple suit for a mere declaration of the plaintiffs' rights to stand for the Bangalore District Board re-election held on 10th September 1928. The defence in the case on behalf of Government was filed on 4-2-1929 and in the written statement a prayer had been specifically added that the question re. the maintainability of the suit might be tried and disposed of in the first instance. In spite of this, the case was allowed to be adjourned for evidence and it appears to have dragged on till 28th June 1930, when the plaintiff is reported to have expressed a desire to withdraw the suit on account of "efflux of time", On the 30th June the suit has been dismissed and the Public Prosecutor has omitted even to get an order for costs in favor of Government.

In view of these circumstances Government

are pleased to sanction a fee of Rs.10/-
ten only to the Public Prosecutor for services
rendered in the case. The Deputy Commissioner,
Bangalore is requested to point out direct to the
Comptroller the source out of which the charge
is to be met.

Secy.to Govt., Law Dept.

To

The Public Prosecutor, Bangalore.
The Comptroller to Government.
The Deputy Commissioner, Bangalore.

D.O. No. PS850/Law

Confidential

13/2/31

Dear Mr. Vijaya Deva,

Re. O.S.7 of 28-29 on the file of the District Judge, Bangalore, (Venkatappa and another vs Govt etc.), I am to state that Government regret to observe that your conduct ~~of the case~~ (on their behalf) has not been ~~very un~~satisfactory. It was a simple suit for a mere declaration of the plaintiffs' right to stand for a certain District Board reelection. The suit was, on the face of it, not maintainable and this plea was specifically raised in the written statement as revised in this office. A prayer was also made therein that this question re: maintainability be tried and disposed of in the first instance. It is very much to be regretted that in spite of this you did not press the matter but allowed the case to be adjourned for evidence, so that it appears to have dragged on till the 28th June 1930 when the plaintiff seems to have expressed a desire to withdraw the suit, on account of "efflux of time". On the 30th June when the case came on for final disposal, it was your duty to have pressed for costs. It is ~~surprising~~ not clear how an order in such a matter ~~was~~ could be passed in Chambers, but even then, you could have easily brought it to the notice of the Judge and got it set right in time. Not only did you omit to take this ordinary step which any legal practitioner would take in such circumstances , but you have made a report to Government about this nearly four months after the order when the time for getting it rectified had lapsed.

It is surprising that you should have shown such ~~The whole conduct shows an utter neglect to~~ utter disregard for safeguarding ~~guard~~ the interests of Government and I am to state that in case no improvement is shown, Government will be compelled to take severe action in the matter.

Yours sincerely,

Bm

Bm 13/2

F. & P. No. P. 5850/Law

18th March 1931 xx

CONFIDENTIAL.

Dear Mr. Vijaya Deva,

Re. O.S. 7 of 28-29 on the file of the District Judge, Bangalore (Venkatappa and another Vs Government etc.,) I am to state that Government regret to observe that your conduct of the case on their -- behalf has not been satisfactory. It was a simple suit for a mere -- declaration of the plaintiffs' right to stand for a certain District Board re-election. The suit was, on the face of it, not maintainable and this plea was specifically raised in the written statement, as -- revised in this office. A prayer was also made, therein, that this -- question re: maintainability be tried and disposed of in the first -- instance. It is very much to be regretted that, in spite of this, you did not press the matter but allowed the case to be adjourned for -- evidence, so that it appears to have dragged on till the 28th June - 1930, when the plaintiff seems to have expressed a desire to withdraw the suit, on account of "efflux of time". On the 30th June, when the case came for for final disposal, it was your duty to have pressed for costs. It is not clear how an order in such a matter could be passed in Chambers, but even then, you could have easily brought it to the notice of the Judge and got it set right in time. Not only did you omit to take this ordinary step which any legal practitioner would take in such circumstances, but you have made a report to Government about this nearly four months after the order, when the time for getting it rectified had lapsed.

Yours sincerely,